



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/599,641

10/04/2006

Hiroshi Shimada

045616/317570

2115

826 7590 05/30/2008

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

WILLIAMS, JAMILA O

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

05/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/599,641	Applicant(s) SHIMADA ET AL.	
	Examiner JAMILA WILLIAMS	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,9 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 8,10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2-27-08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5,7,9,12,13,14,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 296 19 762 to Ahrens et al (hereinafter Ahrens) in view of 2,789,561 to Bonn et al (hereinafter Bonn).

Ahrens discloses a binder comprising a base portion having a width direction and longitudinal direction (base 27), a ring provided on the base portion that can change in position between a closed ring position for binding a document or the like and an open position in which the closed ring is partly opened to allow for filing of a document or the like (ring 3,4 of figure 1), a switching mechanism (7) provided on the base portion for switching between closed and open position (figures 2 illustrates closed position, figure 6 illustrates open position), wherein the ring comprises a first and second member having an end, the closed ring position being achieved when the ends are in contact with each other and the open position when the ends are spaced apart so as to create an open portion between the ends (figure 6 showing the ends in open position and the open portion between) and the switching mechanism including a switching lever (1) swingably attached to the base portion and when the switching lever is swung from a

state in which the ring is in the closed ring position, to create the open portion above a central portion with respect to the width direction of the base portion, and the switching lever passes through the open portion to come to a retracted state (figures 2-6), as recited in claim 1.

Ahrens discloses the first ring member (3) is moveable but does not disclose both the first and second ring members move away from each other simultaneously. Bon teaches having a binder mechanism wherein first and second rings move simultaneously (embodiment of figure 7 has both rings being moved simultaneously by engagement of 12,13,15a and 12',13',15a'). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Bon (to have both rings open simultaneously) with the binder of Ahrens for the purpose of opening the rings.

Ahrens modified by Bonn discloses the ring comprises a plurality of rings arranged along the longitudinal direction of the base portion with a space therebetween (figure 1 Ahrens), the switching mechanism is adapted in such a way that when each of the rings is in the open position the switching lever can pass through an open portion of each ring (Ahrens figures 2-6), as recited in claim 2.

Ahrens modified by Bonn discloses the switching lever has a base end portion (Ahrens 5) hinged to the base portion and a free end (Ahrens 15) to be operated, the base end being provided with a cam portion (7) for adjusting the degree of opening of each of the rings in accordance with the swing position of the free end (Ahrens figures 2-6), as recited in claim 5.

Ahrens modified by Bonn discloses the switching mechanism has two support members arranged side by side on the base portion, each support member can be inclined in a sideways direction perpendicular to the longitudinal direction of the base (Ahrens illustrates one support member 6 and Bonn provides the teaching of having a second support member figure 7 element 12' such that the support members can be inclined in a sideways direction perpendicular to the base when in open position), the first ring member is supported on one of the support members and the second ring member (figure 1 of Ahrens and figure 7 of Bonn) is supported on the other support member, between at least one of the support members and the base portion is provided an elastic member that biases the support in a direction such that the ends move away from each other (elastic member 22 of Ahrens), as recited in claim 7.

Ahrens modified by Bonn discloses the ring comprises two rings arranged along the longitudinal direction of the base with a spacing therebetween (figure 1 of Ahrens shows first and second rings), a connecting portion between the first and second ring members (area 6 of Ahrens and area 12' of Bonn) having press portions serving as pivots of the first and second ring members, each support portion is supported in a rotatable manner relative to the base body (figure 6 of Ahrens provides the left side of the rings in pivoting motion and figure 7 of Bonn provides teaching of having right side of rings in pivoting motion), the press portion is pressed by a cam portion of the switching lever (7 of Ahrens), as recited in claim 9. Regarding the recitation of the rings being metal, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use metal for the base plate, since it has been held to

Art Unit: 3725

be within general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Ahrens modified by Bonn discloses wherein when the ring is in the open position, the switching lever passes through the open portion of the ring (see abstract of Ahrens) and comes to a position opposite the position of the switching lever at the time the ring is in the closed position with respect to the ring in between, as recited in claim 12.

Ahrens modified by Bonn discloses the ring comprises a plurality of rings (figure 1 Ahrens) arranged in a longitudinal direction of the base portion with a spacing therebetween and a switching lever (1) assumes a closed ring position keeping state for keeping the rings in closed position at a position outside of the rings and assumes after passing through the open portion of the rings when the rings are in the open position, a retracted state in which it is retracted to a position outside the plurality of rings that is opposite the position of the lever in closed position (abstract and figures 2-6 of Ahrens), as recited in claim 13.

Regarding claim 14 see rejection 1 above.

Regarding claim 15, Ahrens modified by Bonn discloses a timing for spacing apart the ends of the ring members from each other with respect to the switching lever is a predetermined timing at which the switching lever can pass through the open portion (figures 2-6 of Ahrens- the timing is established by the movement through 180 degrees to open rings).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahrens in view of Bonn and further in view of 2,030,473 to Schade.

Ahrens modified by Bonn discloses the elements of the claims including having a base body. This combination does not disclose the base plate being metal and a cover portion that rises from the base to cover a central portion of the base and a bearing portion provided on the cover portion, the bearing portion constituting a part of a hinge of the switching lever.

Regarding the material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use metal for the base plate, since it has been held to be within general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding the cover, Schade teaches a binding device having a cover (1) having an area (13- that is being considered the bearing portion), area 13 forms part of a hinge of the switching lever of the binder (the lever 6 pivots in this area). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the cover of Schade with the binder of Ahrens modified by Bonn for the purpose of protecting the base components.

Allowable Subject Matter

Claims 8,10,11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not fairly suggest the

overlap of the support portions, bearing portion and the abutment plate as recited in the aforementioned claims in the examiner's opinion.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMILA WILLIAMS whose telephone number is (571)272-4431. The examiner can normally be reached on Monday-Thursday 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. W./
Examiner, Art Unit 3725

/Derris H Banks/
Supervisory Patent Examiner, Art
Unit 3725